

House Bill 1506 (AS PASSED HOUSE AND SENATE)

By: Representatives Houston of the 170th, Burkhalter of the 50th, Ehrhart of the 36th, Royal of the 171st, Harbin of the 118th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Part 1 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to general provisions regarding state sales and use tax, so as to provide for increased criminal penalties with respect to violations of said Article 1; to provide for increased penalties with respect to filing false or fraudulent returns; to provide for increased criminal penalties with respect to failure to furnish certain returns or records; to provide an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 1 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to general provisions regarding state sales and use tax, is amended by striking Code Section 48-8-7, relating to violations of said Article 1, and inserting in its place a new Code Section 48-8-7 to read as follows:

"48-8-7.

(a) It shall be unlawful for any dealer to knowingly and willfully fail, neglect, or refuse to collect the tax provided in this article, either by himself or through his agents or employees.

(b) In addition to the penalty of being liable for and paying the tax himself, any person who violates subsection (a) of this Code section shall be guilty of a misdemeanor ~~and, upon conviction thereof, shall be punished by a fine of not more than \$100.00 or imprisonment in the county jail for not more than three months, or both~~ of a high and aggravated nature and, upon conviction thereof, shall be punished by a fine of not more than \$5,000.00 or imprisonment for not more than one year, or both. Upon the second or subsequent conviction of a person who violates subsection (a) of this Code section, the person shall be guilty of a felony and shall be punished by a fine of not more than \$10,000.00 or imprisonment for not more than five years, or both."

SECTION 2.

Said part is further amended by striking Code Section 48-8-8, relating to filing false or fraudulent sales and use tax returns, and inserting in its place a new Code Section 48-8-8 to read as follows:

"48-8-8.

(a) It shall be unlawful for any dealer required by this article to knowingly and willfully make, render, sign, or verify any return to make a false or fraudulent return with intent to evade the tax levied by this article.

(b) Any person who violates subsection (a) of this Code section shall be guilty of a misdemeanor ~~and, upon conviction thereof, shall be punished by a fine of not less than \$100.00 nor more than \$300.00 or confinement in the county jail for not less than 30 days nor more than three months, or both~~ of a high and aggravated nature and, upon conviction thereof, shall be punished by a fine of not more than \$5,000.00 or imprisonment for not more than one year, or both. Upon the second or subsequent conviction of a person who violates subsection (a) of this Code section, the person shall be guilty of a felony and shall be punished by a fine of not more than \$10,000.00 or imprisonment for not more than five years, or both."

SECTION 3.

Said part is further amended by striking Code Section 48-8-9, relating to failure to furnish sales and use tax returns, and inserting in its place a new Code Section 48-8-9 to read as follows:

"48-8-9.

(a) It shall be unlawful for any dealer subject to this article to knowingly and willfully fail or refuse to furnish any return required to be made by this article or to fail or refuse to furnish a supplemental return or other data required by the commissioner.

(b) Any person who violates subsection (a) of this Code section shall be guilty of a misdemeanor of a high and aggravated nature and, upon conviction thereof, shall be punished by a fine of not more than \$5,000.00 or imprisonment for not more than one year, or both. Upon the second or subsequent conviction of a person who violates subsection (a) of this Code section, the person shall be guilty of a felony and shall be punished by a fine of not more than \$10,000.00 or imprisonment for not more than five years, or both."

SECTION 4.

Said part is further amended by striking Code Section 48-8-10, relating to failure to keep or allow inspection of sales and use tax records, and inserting in its place a new Code Section 48-8-10 to read as follows:

"48-8-10.

(a) It shall be unlawful for any dealer subject to this article to knowingly and willfully fail to keep records or to fail to open the records to inspection as required by law.

(b) Any person who violates subsection (a) of this Code section shall be guilty of a misdemeanor of a high and aggravated nature and, upon conviction thereof, shall be punished by a fine of not more than \$5,000.00 or imprisonment for not more than one year, or both. Upon the second or subsequent conviction of a person who violates subsection (a) of this Code section, the person shall be guilty of a felony and shall be punished by a fine of not more than \$10,000.00 or imprisonment for not more than five years, or both."

SECTION 5.

This Act shall not apply to any offense committed before July 1, 2006. Any such offense shall be punishable as provided by the statute in effect at the time the offense was committed.

SECTION 6.

This Act shall become effective on July 1, 2006.

SECTION 7.

All laws and parts of laws in conflict with this Act are repealed.